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Docket No.: 101896-0245
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Nam T. Chao et al.

Application No.: 10/709,019

Filed: April 7, 2004

For: SPINAL CROSS-CONNECTORS

Confirmation No.: 3018

Art Unit: 3732

Examiner: Reimers, Annette R

Certificate of Facsimile (37 C.F.R. 1.8(a))

I hereby certify that this correspondence is being deposited via facsimile no. 571-273-8300 to the MS Non-Fee Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date set forth below.

Dec. 20, 2005

Date of Signature and Mail Deposit

By:

Lisa AdamsLisa Adams, Reg. No. 44,238
Attorney for Applicant(s)Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450DECLARATION OF NAM T. CHAO
PURSUANT TO 37 C.F.R. 81.131

Dear Sir:

I, Nam T. Chao, residing at 45 Perry Lane, Marlborough MA, 01752, am a co-inventor of the above-referenced patent application, and I hereby declare as follows:

1. As a co-inventor of the subject matter claimed in this patent application, I am familiar with the patent application and its claims, as well as the development of the claimed invention. I understand that an Office Action mailed on October 5, 2005, rejects claims 1-4, 6, 8-10, 13, 15-16, 18-22, 23-28, 31-32, 34, and 36-39 pursuant to 35 U.S.C. §102(e) as being anticipated by U.S. Publication No. 2005/0090821 of Berrevoets et al.
2. At the time the above-referenced application was filed, I was employed by DePuy Spine, Inc., based in Raynham, Massachusetts.

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3. I understand that the Berrevoets publication, which is cited against this patent application by the Examiner in the Office Action mailed on October 5, 2005, has a 102(e) date of October 22, 2003. I believe that the facts set forth below evidence that the invention claimed in this patent application was completed prior to October 22, 2003, which is the earliest priority date that could possibly be claimed by the Berrevoets publication.

4. Before October 22, 2003, I prepared the attached drawings, which illustrate the details of the claimed invention. A redacted copy of the drawings are attached hereto as Exhibit A.

5. All of these acts relating to the conception and completion of this invention took place in the United States.

6. I further declare that all statements made herein of my knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under § 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

12/20/2005

Dated



Nam T. Chao

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